

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

DONNA REED, individually and on behalf  
of all others similarly situated,

*Plaintiff,*

v.

SCIENTIFIC GAMES CORP., a Nevada  
corporation,

*Defendant.*

Case No. 18-cv-00565-RSL

**PLAINTIFF'S REPLY IN  
OPPOSITION TO  
MOTION TO SEAL**

Noting Date: April 30, 2021

Pursuant to Local Civil Rule 5(g) and the parties' protective order at Dkt. #43, Plaintiff filed a motion to seal three items: (1) a graph (Figure 1) in Plaintiff's Motion for Class Certification and for a Preliminary Injunction; (2) one paragraph of text in Plaintiff's Motion for Class Certification and for a Preliminary Injunction; and (3) the entirety of Exhibit 1 to the Declaration of Todd Logan, which is a true and accurate copy of data Apple Inc. produced pursuant to a subpoena issued out of this case as "APL-FIFE\_00001475" and designated as "CONFIDENTIAL."

As a preliminary matter, in its Response in support of Plaintiff's Motion to Seal, Defendant Scientific Games describes the alleged harms to its subsidiary SciPlay, *but not to*

1 *Scientific Games*, that would occur if the material was unsealed. Dkt. #130-1 at 3-4. It appears  
 2 that Scientific Games’ newly retained attorneys from Bartlit Beck are preparing to argue—three  
 3 years into the litigation—that SciPlay, and not Scientific Games, is the appropriate defendant in  
 4 this case. That is twice this month this same issue has been raised by newly retained defense  
 5 counsel in the social casino litigation: in *Benson v. DoubleDown Interactive*, defendant  
 6 International Game Technology recently hired new lead defense counsel and began—three years  
 7 into the case—raising “wrong defendant” type arguments. *See* No. 18-cv-525-RSL, Dkt. #236  
 8 (W.D. Wash. Apr. 19, 2021). In any event, Plaintiff’s counsel has begun the process of meeting  
 9 and conferring with Scientific Games’ new counsel regarding which corporate entities are  
 10 appropriate defendants in this case and hopes to resolve the issue without intervention from the  
 11 Court. *Cf. Benson*, Dkt. #246 (W.D. Wash. Apr. 26, 2021) (stipulation permitting filing of  
 12 amended complaint, including additional entity, without derailing class certification and  
 13 preliminary injunction proceedings or other case deadlines).

14 Turning to the substance, Scientific Games’ Response in support of the Motion to Seal  
 15 fails to meet its burden under Local Civil Rule 5(g)(3)(B) to show that any of the materials  
 16 should remain under seal. Consequently, the motion should be denied and the three items should  
 17 be unsealed.

18 “There is a strong presumption of public access to the court’s files.” LCR 5(g). “Absent a  
 19 showing that the public’s right of access is outweighed by the interests of the public and/or the  
 20 parties in shielding the material from public view, a seal is not appropriate.” *See* Order Denying  
 21 Plaintiffs’ Motion to Seal, *Kater v. Churchill Downs Inc.*, No. 15-cv-612-RSL, Dkt. #284 at  
 22 ECF 2 (W.D. Wash. Feb. 10, 2021). Here, the Response to the Motion to Seal argues that there is  
 23 good cause to seal the three items because “their disclosure would cause significant harm to the  
 24 competitive and financial position of Scientific Games’ subsidiary, SciPlay.” Dkt. #130-1 at 3.

25 Figure 1 and the related paragraph of text in Plaintiff’s Motion for Class Certification and  
 26 for a Preliminary Injunction do not include any transaction-level information, as Scientific  
 27 Games admits. *Id.* (admitting that “the Chart contains less detail” than Exhibit 1). Figure 1 shows

1 aggregate revenue for broad categories of users and the number of users in each category, and  
 2 the text simply describes Figure 1. *See* Dkt. #111 at 1-2. These items do not disclose any  
 3 transaction-level information (such as the “player identification numbers, the date and time of  
 4 each transaction, the price paid by the player, and the number of coins purchased”), so Scientific  
 5 Games’ arguments about commercial sensitivity do not apply. *See* Dkt. #130-1 at 2-3. Scientific  
 6 Games’ conclusory statement that the Chart “still provides critical information regarding the  
 7 games’ users and their spending patterns,” *id.* at 3, does not come close to showing that its  
 8 interest in sealing these items outweighs the public’s right of access. Despite Scientific Games’  
 9 claim that “[n]either Exhibit 1 nor the Chart is necessary to understand Plaintiff’s certification  
 10 motion,” *id.* at 3-4, Plaintiff does rely on Figure 1 and the related paragraph of text in support of  
 11 her Motion for a Preliminary Injunction. *See, e.g.,* Dkt. #111 at 23-24 (“[A]lmost all of  
 12 [Scientific Games’ revenue] comes from a vulnerable population of problem gamblers who  
 13 spend thousands upon thousands of dollars they cannot afford to lose.”). Therefore, the Court  
 14 should unseal the entirety of Plaintiff’s Motion for Class Certification and for a Preliminary  
 15 Injunction. *See* Order Denying Plaintiffs’ Motion to Seal, *Kater*, Dkt. #284 at ECF 3 (describing  
 16 the public’s interest in having access to “revenue information”).

17 Exhibit 1 to the Declaration of Todd Logan, Dkt. #113-1, presents a closer call. Exhibit 1  
 18 does contain granular, transaction-level information. *See* Dkt. #130-1 at 3 (describing the  
 19 confidentiality of “granular transaction data”). With that said, the public’s interest in  
 20 accessing this information outweighs Scientific Games’ interest in shielding it from view. The  
 21 public has a strong interest in accessing the transaction-level information because the trends  
 22 revealed by that information bear directly on—and, in Plaintiff’s view, conclusively establish—  
 23 Plaintiff’s allegations that Defendant has engaged in and continues to engage in unfair business  
 24 practices. And because the information is anonymized, listing players only by “player  
 25 identification number,” *id.* at 2, unsealing will not harm any class members’ privacy interests  
 26 here. Weighing the relevant interests, the public’s right of access should prevail, and the Court  
 27 should unseal Exhibit 1.

1 For the foregoing reasons, all three items should be unsealed.

2  
3 Dated: April 30, 2021

Respectfully submitted,

4 **DONNA REED**, individually and on behalf of all others  
5 similarly situated,

6 By: /s/ Todd Logan

7 Rafey S. Balabanian\*  
8 rbalabanian@edelson.com  
9 Todd Logan\*  
10 tlogan@edelson.com  
11 Brandt Silver-Korn\*  
12 bsilverkorn@edelson.com  
13 EDELSON PC  
14 150 California Street, 18th Floor  
15 San Francisco, CA 94111  
16 Tel: 415.212.9300 / Fax: 415.373.9435

17 By: /s/ Alexander G. Tievsky

18 Jay Edelson\*  
19 jedelson@edelson.com  
20 Alexander G. Tievsky, WSBA #57125  
21 atievsky@edelson.com  
22 Amy B. Hausmann\*  
23 abhausmann@edelson.com  
24 EDELSON PC  
25 350 North LaSalle Street, 14th Floor  
26 Chicago, Illinois 60654  
27 Tel: 312.589.6370 / Fax: 312.589.6378

By: /s/ Cecily C. Shiel

Cecily C. Shiel, WSBA #50061  
cshiel@tousley.com  
TOUSLEY BRAIN STEPHENS PLLC  
1700 Seventh Avenue, Suite 2200  
Seattle, Washington 98101  
Tel: 206.682.5600

\*Admitted *pro hac vice*

*Attorneys for Plaintiff and the Proposed Classes*

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